THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.30573 of 1998

ORAL ORDER:

This writ petition is filed seeking a Certiorari to call for the records relating to proceedings of the first respondent in File No.C/2652/94 in Case No.APSE 2/94 dated 24.1.1996 and quash the same as arbitrary and illegal.

It appears, petitioner is the employer and the second respondent is the employee. The services of the respondent/employee were terminated after conducting a detailed enquiry into certain allegations of misappropriation made against him. Aggrieved by the same, respondent/employee filed appeal under Section 51 of A.P. Shops and Establishments Act (for short 'the Act') before the Labour Officer-II Guntur. The said authority, after a detailed consideration of the rival contentions, dismissed the appeal. Aggrieved by the same, the respondent/employee filed second appeal being S.A.No.5 of 1991 on the file of the Appellate Authority under A.P. Shops and Establishments Act cum Assistant Commissioner of Labour-II and the appellate authority refused to interfere with the order passed by the lower authority and dismissed the application, which attained finality. Thereafter, it appears, respondent/employee filed another application in Case No.APSE No.2/94 before the Labour Officer under Section 50 of the Act claiming compensation for the services rendered by him. The application was however, ordered by the Authority holding that the employee is entitled for Rs.31,495-50 on various counts. In this regard, the said Authority relied upon Section 47 of the Act.

There is no necessity of going into all the details. Section 47 of the Act as such has no application to the facts of this case. Section 47 compensation is available wherever an employee is terminated for want of vacancy, resigned from service or took voluntary retirement or on superannuation. This is not one such case. The allegation of

misappropriation of funds of the society were proved and therefore, the services of the respondent/employee were terminated. Aggrieved by the same, he filed appeal and second appeal before the authorities referred to above and the same were dismissed and attained finality. Under those circumstances, I am of the opinion that the respondent/employee is not entitled for any compensation. Therefore, the impugned order passed by the respondent-authority is erroneous and contrary to law.

In the result, the writ petition is allowed and the impugned order passed by the first respondent in File No.C/2652/94 in Case No.APSE 2/94 dated 24.1.1996 is set aside. No order as to costs.

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C.V.RAMULU, J

Date: 27.6.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.30573 of 1998

27.6.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.30573 of 1998

Date: 27th June, 2007

Between:

The Panidem Weavers Coop. Production and
Sales Society Ltd., Sattenapalli, Guntur district,
represented by its President Ganilamala Koti Lingam.

.. Petitioner

And

The Deputy Commissioner of Labour,
Guntur and others.

.. Respondents